

## CHAPTER ONE. ORGANIZATION, FUNCTIONS AND GENERAL PROVISIONS

### Subchapter 1.02 - City Council Protocols

#### Division 1. – Council Powers and Responsibilities

##### 1.02.010 City Council Generally

- (a) The City Council has the power, in the name of the Town, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, federal and state laws.
- (b) The Council acts as a body. No council member has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All council members, including the Mayor, have equal powers.
- (c) Council members shall respect and adhere to the council-manager structure of government, as provided in State law and these protocols.
- (d) Council members shall support the maintenance of a positive and constructive environment for residents, businesses and City employees.

[History: Res. 2008-52, 9/10/08]

##### 1.02.020 Roles

The City Council has four key roles, which may be described as legislative, quasi-judicatory, quasi-executive, and representative.

- (1) *Legislative.* In its legislative role, the City Council makes laws, which may be in the form of an ordinance or a resolution. Under the California Constitution, the City Council has broad authority to “make ... all local, police, sanitary, and other ordinances and resolutions not in conflict with the general laws.” (Cal. Const., Article XI, Section 7). Some examples of legislative acts are an Ordinance

Regulating the Uses of Land in the Town and an Ordinance Prohibiting Nuisances in the Town.

- (2) *Quasi-executive.* In its quasi-executive role, the Council sets policies for the Town’s key staff, much like a Board of Directors of a publicly-held corporation. For example, the Council sets land use goals in the General Plan. The Council also sets goals and expectations of the City Manager and City Attorney, evaluates their performances, and determines overall staffing levels for the Town. In a City Manager form of government, council members are not involved in managing the day-to-day operations of the City, leaving that role to the City Manager. The City Manager’s responsibility, for example, is to set goals and expectations of Department Directors and evaluate their performances. Perhaps the best explanation is that the Council’s role is to define the ends to be achieved, while it is the City Manager’s role to choose the means for achieving those ends.

- (3) *Quasi-judicial.* The Council frequently sits as an adjudicatory body. In this role, it acts as both judge and jury; hence the term “quasi-judicial.” At times, the Council is obligated to hear evidence and make an impartial decision whether the matter before the Council meets or fails to meet existing rules and regulations. At others, the Council has some discretion on how to rule. Frequently, the Council’s role involves a combination of

adjudication and discretion. An application for use permit and a request to revoke a use permit are examples of the types of matters that come before the Council in its quasi-judicial role.

- (4) *Representative.* Council members frequently act as the Town's representative before other public agencies, including BART, the Council of Cities, City/County Association of Governments (C/CAG), and the Peninsula Congestion Relief Alliance. Sometimes, the council member is simply presenting the Town's view, as at a BART hearing; other times, the council member sits as a voting member of the agency, e.g., C/CAG. In both cases, the member's authority goes only so far as the instructions given to him or her by the entire council.

[History: Res. 2008-52, 9/10/08]

#### **1.02.030 Council Committees**

- (a) The use of standing committees is discouraged.
- (b) The Mayor may appoint *ad hoc* committees of the Council to facilitate Council review and action or to make recommendations to the Council. An *ad hoc* committee is a committee of less than a majority of council members appointed for a specific purpose, case or situation, and is usually given a specific time within which to complete its assignment. Members of the committee serve at the pleasure of the Mayor.
- (c) All work undertaken by a committee must originate with the Mayor and all actions of a Council committee shall be reported to the Council.
- (d) If a member anticipates being absent from committee work, the committee chair or other member may request that the Mayor designate another member of the Council to attend for the absent member and serve as an alternate member of the committee, provided that the member's attendance, in the opinion of

the City Attorney, will comply with the Brown Act. The term for service by the alternate member will be the term designated in the appointment, or for one meeting, if no term is specified.

- (e) Members of the Council not assigned to an *ad hoc* committee may not attend meetings of the committee.

[History: Res. 2008-52, 9/10/08]

#### **1.02.040 Treasurer**

The City Treasurer shall abide by and follow these *Protocols*.

[History: Res. 2008-52, 9/10/08]

### **Division 2 - Council-Manager Form Of Government**

#### **1.02.050 Form of Government**

- (a) The Town of Colma operates under a council-manager form of government as established by the Colma Municipal Code. Under this form of government, the Council adopts ordinances and resolutions to govern conduct, sets City policy and monitors its execution by City staff. The City Manager serves as the City's chief executive officer and is responsible for directing the day-to-day operations of the City.

- (b) All employees serve the council as a whole, not any individual council member. The guidelines set forth herein are designed to preserve the relationship between the Council as a whole and each employee.

[History: Res. 2008-52, 9/10/08]

#### **1.02.060 City Manager**

- (a) An elected official shall not interfere with the execution by the City Manager of the City Manager's powers and duties. Specifically, but without limitation, an elected official may not, directly or indirectly, order the City Manager to hire, fire or discipline any employee.
- (b) Except as provided in the previous paragraph, an elected official may communicate with the City Manager on any matter and without

restriction. If an elected official directs or requests that the City Manager initiate any action, change a course of action, or prepare a report, the City Manager may take such action only if he or she believes it to be consistent with a policy or position previously adopted by the Council; otherwise, the City Manager should first obtain direction from a majority of the Council at a City Council meeting.

(c) Nothing herein shall prevent a majority of the City Council from considering the actions or omissions of the City Manager when evaluating his or her performance.

[History: Res. 2008-52, 9/10/08]

#### **1.02.070 City Attorney**

(a) Under the Rules of Professional Ethics, the City Attorney's client is the Town itself, "acting through its highest authorized officer, employee, body, or constituent overseeing the particular engagement." When advising the Town, the City Attorney has a duty to act impartially and to maintain objectivity.

(b) An elected official who consults the City Attorney and his or her staff do so as a representative of the Town and cannot establish a separate attorney-client relationship with the City Attorney.

(c) An elected official shall not interfere with the duty of the City Attorney to represent and advise the Town in accordance with the concepts set forth in paragraph (a). The City Attorney may disclose to other council members communications with an individual council member.

(d) Except as provided in the previous paragraph, an elected official may communicate with the City Attorney on any matter and without restriction. If an elected official directs or requests that the City Attorney initiate any action, change a course of action, or prepare a report, the City Attorney may take such action only if he or she believes it to be consistent with a policy or position previously adopted by the Council; otherwise, the City Attorney should first obtain direction from a majority of the Council at a City Council meeting.

(e) Nothing herein shall prevent a majority of the City Council from considering the actions

or omissions of the City Attorney when evaluating his or her performance.

[History: Res. 2008-52, 9/10/08]

#### **1.02.080 Contacts with Department Directors**

(a) An elected official may communicate with a Department Director to obtain information and opinions within the Director's jurisdiction. Except as provided in section 1.02.180, an elected official shall not, without the approval of the majority of the Council:

- (1) direct any Department Director to initiate any action, change a course of action or prepare any report;
- (2) direct any Department Director to initiate any project or study; or
- (3) attempt to pressure or influence discussions, recommendations, workloads, schedules or priorities of a Department Director.

(b) Notwithstanding the previous paragraph, an elected official may:

- (1) when preparing for Council meetings, direct questions to the Director of the Department that prepared the staff report; and
- (2) directly request factual information or research from a Department Director when it is anticipated that the request can be completed in less than an hour.

(c) Requests for research or information anticipated to take a Director more than one hour to complete should be placed through the City Manager. Requests for new information or policy direction will be brought to the Council at a regular meeting for consideration. All written reports will be copied to the Council.

(d) Whenever an elected official contacts a Department Director outside of a council

meeting, the council member may not solicit information about, and the Department Director may not communicate to other council members, the comments or position of any other council member.

(e) Any concerns by a member of the City Council regarding the behavior or work of a Department Director should be made, in private, to the City Manager or the City Attorney. Council members shall not reprimand Department Directors directly nor should they communicate their concerns to anyone other than the City Manager or City Attorney.

[History: Res. 2008-52, 9/10/08]

#### **1.02.090      Contacts with Staff Members**

See section 1.02.180, below.

[History: Res. 2008-52, 9/10/08]

#### **1.02.100      Requests for Political or Charitable Support**

(a) Because of the real and/or perceived power position an elected official holds over an employee, an elected official may not solicit political support (e.g., financial contributions, display of posters or lawn signs, name on support list, etc.) or charitable contributions from any employee.

(b) A Town employee may, as private citizens with constitutional rights, support political candidates and charitable causes, but all such activities must be done away from the workplace and may not be conducted while in uniform.

[History: Res. 2008-52, 9/10/08]

#### **1.02.110      City Council Meeting Agenda**

(a) *City Manager.* Except as provided in this section, the City Manager shall prepare and place items on the agenda. The City Manager shall consult with the Mayor in preparing the agenda.

(b) *Council Member.* An elected official may place an item on the agenda:

(1) By submitting a written request to the City Manager, along with the written consent of at least one other Council Member, and communicating the request to the City Manager at least one day prior to the day the City Manager anticipated posting the agenda, in which case the City Manager shall put the item on the agenda as a Study Session unless the City Manager determines that it can and should be an action item; or

(2) By motion made and approved by a majority of the council at a open and public meeting.

(c) *Applications Subject to Permit Streamlining Act.* In determining which items shall be placed on the agenda for a meeting, the City Manager shall give priority to those matters that are at risk of being "deemed approved" under the Permit Streamlining Act.

(d) *Public.* A member of the public does not have the right to place a matter on the agenda.

(e) *Additions to the Agenda.* Once the agenda has been published, only the City Council may add an item to the agenda and only by following the provisions of the Brown Act.

(f) *Withdrawal or Continuance.* Once the agenda has been published, only the City Council may continue or table the item or otherwise alter the agenda.

[History: Res. 2008-52, 9/10/08]

#### **1.02.120      Handling of Confidential Information**

(a) Whenever the City Attorney identifies a written or verbal communication as confidential, each Council Member is obligated to maintain that confidentiality unless otherwise instructed by the City Attorney or a court. An elected official may not disclose or mention any information in these materials to anyone other than another council member, the City Attorney or City Manager.

(b) Confidential materials provided in preparation for and during closed sessions must be returned to staff at the conclusion of the closed session.

(c) Confidential materials provided to council members outside of closed sessions must be destroyed, kept under lock in a secure location or returned to staff within thirty (30) days of their receipt.

(d) An elected official does not have a right of access to confidential information except where the Council, as a whole, has a direct interest in the subject matter. Specifically, but without limitation, an elected official does not have a right of access to employee personnel files, except that the Council, as a whole, is entitled to review the City Manager's file and the City Attorney's file in the course of its duty as the supervisor of those persons.

[History: Res. 2008-52, 9/10/08]

#### **1.02.130 Representing an Official City Position**

(a) Council members may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.

(b) Once the City Council has taken a position on an issue, all official City correspondence regarding that issue will reflect the Council's adopted position.

(c) The Mayor is hereby authorized to send letters stating the Town's official position to appropriate legislators or interested parties.

(d) If a member of the City Council appears before another governmental agency organization to give a statement on an issue affecting the Town, the council member should indicate the majority position and opinion of the Council.

(e) Personal opinions and comments may be expressed only if the council member clarifies that these statements do not reflect the official position of the City Council.

[History: Res. 2008-52, 9/10/08]

#### **1.02.140 Ex Parte Contacts in Quasi-Judicial Proceedings**

(a) When acting in its quasi-judicial capacity, the Council holds a hearing, takes evidence, determines what the evidence shows and exercises its discretion in applying the facts to the law shown by the evidence. It is in these types of proceedings that the rule relative to ex parte contacts applies.

(b) An elected official shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board or commission thereof, except at the public hearing.

(c) As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing and before the public comment period is opened.

(d) Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

[History: Res. 2008-52, 9/10/08]

#### **Division 3 - Administrative Support**

##### **1.02.150 Incoming Correspondence**

(a) Except as provided in the next paragraph, incoming correspondence to any council member will be opened by staff who will provide a copy to all council members. Letters that require a response will be accompanied with a note indicating which staff person will prepare a response for the Mayor's signature.

(b) Cards or mail addressed to an individual council member and marked "personal" or "confidential" will be delivered unopened to the council member, and copies will not be made. Copies of correspondence from a regional committee to a council member need not be provided to all council members.

[History: Res. 2008-05, 2/13/08; Res. 2008-52, 9/10/08]

#### **1.02.160      Outgoing Correspondence**

An elected official may use Town stationary, letterhead or the Town logo:

- (1) For Town business, provided that the member has been authorized to represent the Town on a matter and the correspondence reflects a position taken by a majority of the Council at an open and public meeting; or
- (2) For individual correspondence with members of the public, including correspondence containing informational or educational material about a matter of public interest, provided that each of the following conditions are met in individual correspondence with members of the public:
  - (A) the correspondence states that the opinions are those of the writer only;
  - (B) nothing in the correspondence may be construed as an endorsement of any candidate; and
  - (C) nothing in the correspondence may be construed as campaign material or for the official.

[History: Res. 2008-05, 2/13/08; Res. 2008-52, 9/10/08]

[Authority: Gov't Code § 89001]

#### **1.02.170      Contacts with Staff**

(a) As used in this subchapter, the phrase "staff member" means an employee or independent contractors who serves in the place of an employee, other than the City Manager, City Attorney or a Department Director.

(b) A council member's contacts with a staff member shall be governed by the following guidelines:

- (1) An elected official serving on a council committee or as the Town's representative to an outside agency may interact directly with City staff assigned to that effort. The Town staff member so designated and assigned will keep the City Manager appropriately informed of all contacts with elected officials.
- (2) In all other cases, a council member's contacts should be limited to asking for and obtaining information of a routine nature, and the council member may not direct the staff member to initiate any action, prepare a report or conduct research, except as provided in section 1.02.180.
- (3) If an elected official seeks administrative support on any matter not described in this section, he or she must first contact the City Manager.

(c) Notwithstanding the foregoing, an elected official may directly request factual information of a routine nature from a staff member when it is anticipated that the request can be completed in less than an hour. Requests for research or information anticipated to take Staff more than one hour to complete should be placed through the City Manager. All written products will be copied to the full Council.

(d) Whenever an elected official contacts an employee outside of a council meeting, the council member may not solicit information about, and an employee may not communicate

to other council members, the comments or position of any other council member.

(e) Any concerns by a member of the City Council regarding the behavior or work of a staff member should be made, in private, to the City Manager or the City Attorney. Council members shall not reprimand staff members directly nor should they communicate their concerns to anyone other than the City Manager or City Attorney.

[History: Res. 2008-52, 9/10/08]

#### **1.02.180 Clerical Support**

The City Manager will coordinate the preparation of correspondence, Proclamations and Commendations requested by individual council members.

[History: Res. Res. 2008-05, 2/13/08; 2008-52, 9/10/08]

#### **1.02.190 Proclamations, Commendations and Certificates**

The City Manager is authorized to prepare, for signature by council members, proclamations, commendations and certificates commemorating a significant event, achievement, milestone or remembrance provided that the council may not endorse any candidate, ballot measure, religious organization or creed, and may not purport to take action on a matter that should properly be considered by the City Council at an open and public meeting.

[History: Res. 2008-05, 2/13/08; Res. 2008-52, 9/10/08]

#### **1.02.200 Council Activities Calendar**

A Council Activities Calendar of events, functions or meetings will be provided to the full Council on a weekly basis. An individual council member's functions, events or meetings will be included on the calendar only at the request of the individual council member. This calendar may be kept in both electronic and hard-copy forms.

[History: Res. 2008-05, 2/13/08; Res. 2008-52, 9/10/08]

#### **1.02.210 Council Notification of Significant Incidents**

The City Manager's office will establish procedures for providing notification to the Mayor, Vice Mayor and remaining council members of a major crime, fire or other serious incidents, using the communication process most readily available.

[History: Res. 2008-05, 2/13/08; Res. 2008-52, 9/10/08]

### **Division 4 - Legal and Ethical Standards**

#### **1.02.220 Preamble**

The residents and businesses of Colma are entitled to have fair, ethical and accountable local government, and expect that its public officials:

- (1) Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- (2) Be independent, impartial and fair in their judgment and actions;
- (3) Use their public office for the public good, not for personal gain; and
- (4) Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

[History: Res. 2008-52, 9/10/08]

#### **1.02.230 Duties of Loyalty and Care**

- (a) Elected officials shall fully and faithfully discharge two basic duties: the duty of loyalty and the duty of care.
- (b) The duty of loyalty means that council members shall work for the common good of the people of Colma and not for any private or personal interest. Council members shall not by virtue of their public office take advantage of services or opportunities for personal gain that

are not available to the public in general. Public resources not available to the general public (e.g., City staff time, equipment, supplies or facilities) shall not be used by council members for private gain or personal purposes. The duty of loyalty is also expressed in the various rules and policies regarding Conflicts of Interests, which are set forth in greater detail in this Division.

(c) The duty of care means that an elected official must take such care in the management of the affairs of the Town as a reasonable prudent person would take in managing the property placed in his or her trust. The duty of care is also expressed in the various standards of conduct set forth in this Division.

[History: Res. 2008-52, 9/10/08]

#### **1.02.240 State Law Regarding Conflicts**

There are five key areas of California State law that regulate the ethics of public officials. The following summary is provided to help council members in identifying issues. However, because the law and the regulations are complex and are continuously subjected to official interpretation, council members should consult with the FPPC and/or City Attorney for further advice and clarification.

##### **(1) Constitutional prohibitions**

State law strictly forbids elected and appointed public officials from accepting free or discounted travel from transportation companies. The penalty for a violation includes the forfeiture of office.

##### **(2) Contractual conflicts of interest**

This prohibition, found in Government Code Section 1090, applies to elected and appointed officials as well as all Town employees. It prohibits the Town from entering into a contract if one of its council members is financially interested in the contract. If the bar (or prohibition) applies, the agency is prohibited from entering into the contract whether or not the official with the conflict participates or not. In some limited circumstances, officials are allowed to disqualify

themselves from participation and the agency may enter into the contract.

Financial interest has been defined to include employment, stock/ownership interests and membership on the board of directors of a for-profit or nonprofit corporation, among others. Violations can be charged as a felony. A person convicted of violating Section 1090 is prohibited from ever holding public office in the State.

##### **(3) Conflicts of Interest under the Political Reform Act**

The Political Reform Act (PRA) was adopted by the voters in 1974 and is the primary expression of the law relative to conflicts of interest (and campaign finance) in California. The Act created the Fair Political Practices Commission (FPPC), a five-member State board which administers the Act. Basically, the PRA requires council members to disclose their economic interests and to disqualify themselves from making, influencing or participating in any decision that affects their financial interests.

Under the PRA, council members must file written disclosures of their economic interests on a form specified by the FPPC within 30 days of assuming office, on or before April 1 of each year thereafter, and within 30 days after leaving office.

With respect to disqualification, the FPPC has promulgated a regulation which establishes an eight-step analysis which assists in determining whether a public official is participating in a government decision in which they have a qualifying financial interest and whether it is reasonably foreseeable that the decision will have a material financial effect on the public official's financial interest, which is distinguishable from the effect the decision will have on the public generally.

##### **(4) Incompatible Offices**



State law prohibits an elected official from simultaneously holding incompatible offices. Offices are incompatible if (a) either office may overrule, remove or supervise the other; (b) there is a clash of duties or loyalties between the offices; or (c) public policy considerations make it improper for one person to hold both offices. When two public offices are incompatible, a public officer forfeits the first office upon taking the second.

(5) *Common Law Conflicts of Interest*

Common law means a system of laws originally developed in England and based on court decisions, on the doctrines implicit in those decisions, and on custom and practice, rather than a codified set of statutes.

[History: Res. 2008-52, 9/10/08]

**1.02.250 Town-enacted Standards**

To help meet the expectations of the public and to implement state laws, the Colma City Council has adopted rules and policies that govern the conduct of public officials. The principal documents containing these rules and policies are:

(1) *Local Conflicts of Interests Code*

The Conflicts of Interests Code is adopted biannually pursuant to the Political Reform Act of 1974, and applies to all council members, City Treasurer, City Manager, City Attorney, and all "designated employees;"

(2) *City Council Protocols*

This subchapter of the Colma Administrative Code sets forth protocols for conduct of council members in dealing with staff and the public, and identifies those values that are important to the council.

(3) *Standards of Conduct*

The Standards of Conduct contained in the Personnel Policies, being subchapter 3.03 of the Colma Administrative Code, sets forth specific rules of conduct applicable to all employees and officials of the Town, including council members.

[History: Res. 2008-52, 9/10/08]

**1.02.260 Attendance at Meetings**

(a) Included within the duty of care is the duty to attend meetings of the council.

(b) Government Code § 36513 provides that unexcused absences from council meetings for more than 70 consecutive days will vacate the office of the absent council member. An elected official with a legitimate excuse may submit the proffered excuse, in writing, to the City Council for approval, before or soon after an absence.

[History: Res. 2008-52, 9/10/08]

**1.02.270 Be Informed**

To become informed, council members should ask for and obtain from staff a flow of internal information, such as financial statements, periodic reports, and forward planning; become aware of the practices and activities of similar entities; attend conferences hosted by the League of California cities; and read materials from the League. Of course, a member should be aware of the desires and concerns of his or her constituents. The ultimate test whether a member is properly informed is whether he or she is able to explain each vote for or against a particular question.

[History: Res. 2008-52, 9/10/08]

**1.02.280 Equal Treatment**

An elected official has a duty to treat all members of the public and issues before them in a fair and equitable manner. This does not mean that an elected official must abandon or disregard principles and philosophies; it does mean that an elected official must give each person fair treatment.

[History: Res. 2008-52, 9/10/08]

**1.02.290 Conduct and Behavior as a Council Member**

- (a) Although council members may disagree with themselves or staff from time to time, council members shall always conduct themselves with civility.
- (b) An elected official shall follow the processes and rules of order established by the City Council.
- (c) Council members shall inform themselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand.
- (d) Council members shall base their decisions on the merits and substance of the matter at hand.
- (e) Council members shall publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other council members and the public prior to taking action on the matter.
- (f) When an elected official meets with officials from other agencies and jurisdictions, he or she should take appropriate City staff members along.
- (g) Council members shall not attend internal staff meetings or meetings between City staff and third parties unless invited by City staff or directed by Council to do so.

*[History: Res. 2008-52, 9/10/08]*

**1.02.300 Training**

- (a) Ethics standards shall be included in the regular orientations for City Council candidates.
- (b) Personal attendance at a training session is the preferred norm for receiving the bi-annual training required by AB 1234.

*[History: Res. 2008-52, 9/10/08]*

**1.02.310 Dealings with the Public**

- (a) Council members should avoid any action that could be construed as, or create the appearance of, using public office for personal gain, including use of City stationery or other City resources to obtain or promote personal business.
- (b) In keeping with their role as stewards of the public interest, council members shall not appear on behalf of the private interests of a third party before the Town Council or any board, commission or committee or proceeding of the Town, except as permitted by law
- (c) To the best of their ability, council members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the Council or the Town.

*[History: Res. 2008-52, 9/10/08]*

**1.02.320 Nepotism**

The Council shall not appoint to a salaried position under the Town government any person who is a relative by blood or marriage within the second degree of any one or more of the members of such Council and neither shall any department head or other officer having appointive power appoint any relative within such degree to any such position.

*[History: Res. 2008-52, 9/10/08]*

**1.02.330 Reporting Violations**

- (a) Council members are required to report violations of the laws and policy of which they become aware.
- (b) Council members wishing to report a suspected violation by a staff member should report it to both the City Manager and City Attorney.

*[History: Res. 2008-52, 9/10/08]*

**1.02.340        Delegation of Enforcement  
Authority**

(a)        The Council hereby delegates to the City Manager the responsibility to discuss individually with any elected official, any real or perceived inappropriate action of a minor nature by that elected official. The City Manager will discuss with the elected official the action and suggest a more appropriate process or procedure to follow. The City Manager is not required to report the matter to the City Council except as provided in the next paragraph.

(b)        If further inappropriate action continues by the elected official, or if the conduct is other than a minor violation, or if the matter will foreseeably lead to criminal charges, FPPC action, or civil litigation, the City Manager shall report the concern to the full Council.

(c)        In implementing the provisions of this section, the City Manager will be authorized to conduct all inquiries and investigations as necessary to fulfill their obligation.

(d)        For purposes of this section, the incident or violation is not minor if it involves the injury or potential injury to any person (e.g., physical, emotional, defamation, harassment, etc.); if it involves significant exposure to a monetary claim against the Town; if it may be charged as a felony or as a misdemeanor involving a crime of moral turpitude; or if it is a repeat occurrence.

(e)        This policy and the protocols set forth herein are alternatives to any remedy that might otherwise be available or prudent. Nothing herein is intended to prevent or hinder any individual who believes a violation may have occurred, including the City Manager and City Attorney, from reporting the violation to other appropriate authorities.

*[History: Res. 2008-52, 9/10/08]*